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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,563	03/23/2004	David L. Marvit	073338.0198 (04-50471 FLA	4218
5073	7590	03/27/2007	EXAMINER	
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			LIANG, REGINA	
			ART UNIT	PAPER NUMBER
			2629	

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	03/27/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/27/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mike.furr@bakerbotts.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/807,563	<b>Applicant(s)</b> MARVIT ET AL.	
	<b>Examiner</b> Regina Liang	<b>Art Unit</b> 2629	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 February 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/12/07</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This Office Action is responsive to amendment filed 2/12/07. Claims 1-21 are pending in the application.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 102***

3. Claims 1, 3, 5-8, 10, 12-15, 17, 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Mosttov et al (WO 03/001340 hereinafter Mosttov).

As to claims 1 and 21, Mosttov discloses a motion controlled handheld device (Fig. 1) comprising: a display having a viewable surface and operable to generate an image;

a gesture database maintaining a plurality of gestures, each gesture defined by a motion of the device with respect to a first position of the device, the gesture database comprising a first gesture set and a second gesture set (a first class of gestures and a second class of gestures);

a motion detection module (inertial sensors in Fig. 2) operable to detect motion of the handheld device within three dimensions and to identify components of the motion in relation to the viewable surface; and

a control module (15 in Fig. 2) operable to: track movement of the handheld device using the motion detection module;

compare the tracked movement (inertial data from the inertial sensors) against the gestures in the first gesture set to determine matching gestures (see Fig. 4);

monitor user precision in indicating the matching gestures; determine that the user precision exceeds a precision threshold (page 10, lines 9-12 of Mosttov states “the second interpreters 54 identifies a direction and degree of “tilt”, e.g., the amount by which the electronic device is tilted away from the gravitational vector along one of the six semi-axes”; it is inherent that the motion discriminator 50 having a precision threshold to discriminate the motion of the device is a linear/planar motion or a tilt motion, when the degree of “tilt” exceeds the precision threshold, the tilt motion is identified by the second interpreters 54);

prompt the user to enable the second gesture set (“identify particular gesture from second class” in Fig. 4); and

in response to an appropriate user command, enable the second gesture set such that the controller compares subsequent motion of the device against the gestures in the second gesture set.

As to claim 3, Fig. 6 of Mosttov teaches the second gesture set comprises more gestures than the first gesture set (the 2nd class of gestures including 3rd and 4th class of gestures).

As to claim 5, Mosttov teaches the gesture database defines each of the gestures using a sequence of acceleration (40 in Fig. 5).

As to claim 6, Mosttov teaches the appropriate user command is a selected on of movement of the device matching to a particular gesture and a non-motion user input.

As to claim 7, Fig. 5 of Mosttov teaches using three accelerometers (40) to detect acceleration along three axes, and the motion detection module is operable to detect motion of the device using accelerations measured by the three accelerometers.

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Claims 8, 10, 12-14, 15, 17, 19, 20, which are method claims corresponding to the above apparatus claims, are rejected for the same reasons as stated above since such method "steps" are clearly read on by the corresponding "means".

***Claim Rejections - 35 USC § 103***

4. Claims 2, 9, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mosttov.

Although Mosttov is silent on the distinction of gestures within each set as claimed, however such would have been obvious to one of ordinary skill in the art at the time the invention was made since the complexity of each set of gestures is different from one another hence the distinctness between the gestures would also be different. That is, a second set having simple gestures while a first set has complex gestures, therefore the gestures in the second set would have less distinction between gestures as compared to the first gesture set.

***Allowable Subject Matter***

5. Claims 4, 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments filed 2/12/07 have been fully considered but they are not persuasive.

Applicant's argument regarding claim 1 in that Mosttov does not disclose monitoring user precision in indicating matching gestures, and determining that user precision exceeds a

precision threshold and prompting the user to enable another gesture set, are not persuasive, are not persuasive. As stated in the rejection above, Mosttov discloses “the second interpreters 54 identifies a direction and degree of “tilt”, e.g., the amount by which the electronic device is tilted away from the gravitational vector along one of the six semi-axes”. The degree of tilt determined by the discriminator 50 corresponds to a precision threshold, if the threshold (degree of tilt) does not exceed a predetermined number, a reciprocal motion is identified, if the threshold exceeds a predetermined number, the tilt motion is identified, and this reads on determining a user precision as claimed.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

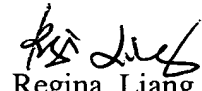
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Regina Liang whose telephone number is (571) 272-7693. The examiner can normally be reached on Monday-Friday from 8AM to 5:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Hjerpe, can be reached on (571) 272-7691. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Regina Liang  
Primary Examiner  
Art Unit 2674

3/20/07